

be Senator BYRD on a 30-minute time-frame, 20 minutes for Senator BYRD and 10 minutes for myself; that will follow the 10 minutes of debate on the circuit court judge and the vote on that confirmation.

I, again, renew my request for unanimous consent that following the disposition of those amendments and the circuit judge this bill be read for the third time and the Senate vote on final passage of the Defense appropriations bill with no further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. STEVENS. I ask unanimous consent that the scheduled rollcall vote previously ordered on the confirmation of Calendar No. 294 be vitiated and we now have a vote on the confirmation of the other nomination.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, the distinguished senior Senator from Alaska is referring to the district court judge; is that correct?

Mr. STEVENS. The district court judge, yes. There will be a vote scheduled on the confirmation of the circuit court judge, Allyson Duncan. I ask that we vitiate the rollcall on the district judge and have a rollcall vote on the circuit judge. There will be 10 minutes equally divided on the circuit judge.

Mr. LEAHY. Reserving the right to object, the district judge is strongly supported by both the Senators, Democrat and Republican Senators, of the nominee's State. After appropriate consultation, we have no objection to a voice vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### EXECUTIVE SESSION

#### NOMINATION OF ALLYSON K. DUNCAN, OF NORTH CAROLINA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Allyson K. Duncan, of North Carolina, to be United States Circuit Judge for the Fourth Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 10 minutes equally divided between Senator DOLE and Senator EDWARDS.

Mr. LEAHY. Mr. President, I ask for the yeas and nays on this nominee.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from North Carolina.

Mrs. DOLE. Mr. President, I am pleased tonight we are confirming two of President Bush's judicial nominees from my home State of North Carolina, Allyson Duncan to the Fourth Circuit Court of Appeals and Louise Flanagan to the Eastern District of North Carolina. Our free society is based on reasoned, dispassionate judgment of the men and women of our judicial branch of our Government who share a sense of honor and duty to our country and to our Constitution. Every indication is that these two talented and experienced individuals will provide just that.

Judges interpret and apply the laws that govern our Nation, including our fundamental rights and liberties protected in the Constitution. However, on the Fourth Circuit Court of Appeals, there is a North Carolina vacancy that is the longest on the entire Federal bench. It dates back nearly a decade to July 31, 1994. In fact, North Carolina has had no representation on the Fourth Circuit Court in nearly 4 years, though we are the largest State in the circuit. Two seats have stood empty on North Carolina's Eastern District Court for 2½ and 5½ years, respectively.

I am pleased the Senate has stepped up and fulfilled its duties for these to nominees, taking steps to fill these vacancies to address the disparity for North Carolina.

This vote is historic in more ways than one. Allyson Duncan is the first woman from North Carolina to serve on the Fourth Circuit Court of Appeals. She is also the first African-American woman to serve on the Fourth Circuit Court. Ms. Duncan's résumé is most impressive, marked with numerous positions of significant responsibility in both the public and private sectors. Currently, an attorney with the Raleigh law firm of Kilpatrick Stockton, Ms. Duncan is the president of the North Carolina Bar Association, and an active member of the North Carolina Association of Women Attorneys. Prior to that, she was a judge on the North Carolina Court of Appeals, and a professor of law at North Carolina Central University.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EDWARDS. Mr. President, I rise to enthusiastically express my support for the nomination of Allyson Duncan for the Fourth Circuit Court of Appeals and Louise Wood Flanagan for the U.S. District Court for the Eastern District of North Carolina.

This is a historic day for my home state of North Carolina. Once confirmed, Allyson Duncan will be the first North Carolinian to join the Fourth Circuit Court of Appeals in 23 years. North Carolina is the only State in the Union with no judges on a Federal appellate court. And we have the longest-standing vacancy in the Federal appeals court system.

I was very proud to support Judge Duncan's nomination and it was my pleasure to introduce her during her confirmation hearing. She will restore the voice of North Carolina to this very important Federal Court and breaks a logjam that has damaged our state for too many years.

This historic development shows what can be done when the President truly respects the advice and consent role of the Senate. In this case, President Bush did more than just pay lip service to this important responsibility. He reached out to Senator DOLE and me before he made his decision—he consulted with us—he sought our advice. In making his decision, the President selected a nominee who represents the mainstream of our state.

I commend the President for consulting with us and for making an excellent nomination. If he takes this approach to future judicial nominations we have a real opportunity to find common ground in the search for excellence on the Federal bench. When we work together, we find outstanding nominees like Allyson Duncan who represents the best of North Carolina.

As impressive as her resume is, even more telling is her steller repudiation throughout the North Carolina legal community. I have heard from folks all over the State who can't say enough about Allyson Duncan. What people keep telling me is that this is a woman of extraordinary intellect and skill, who loves the law, strives for justice and never allows politics to interfere with her commitment to fairness and equality.

When the Senate confirms Allyson Duncan—which I hope will happen soon—her confirmation will mark a number of "firsts."

She will be the first North Carolinian to join the 4th Circuit in over 20 years; she will be the first African American woman to serve on that distinguished court. And most important, I hope she will be the first in a series of bipartisan, consensus judicial nominations from our State.

I yield the floor.

Mr. HATCH. Mr. President, I rise today to express my strong support for the confirmation of Allyson K. Duncan, who has been nominated to the U.S. Court of Appeals for the Fourth Circuit.

Ms. Duncan is truly an impressive woman and has the enthusiastic support of both North Carolina senators, along with a unanimous "Well Qualified" ABA rating.

She graduated first in her class at Hampton University, a historically black college. She then attended Duke University Law School and was appointed an Earl Warren Legal Scholar, a scholarship awarded to black law students demonstrating leadership and an interest in the public interest.

Upon graduation, our nominee clerked for the Honorable Julia Cooper Mack on the District of Columbia Court of Appeals, before beginning her

tenure at the Equal Employment Opportunity Commission in 1978. Ms. Duncan held several positions at the EEOC, starting as an appellate attorney, serving as the assistant to the Chairman, and ultimately becoming acting legal counsel.

Ms. Duncan left the EEOC for a teaching post at North Carolina Central University School of Law, another historically black college, where she taught property, employment discrimination, labor law, and appellate advocacy.

Our outstanding nominee is also a pioneer. After leaving her teaching post in 1990, she became the first black woman to be appointed to the North Carolina Court of Appeals as an associate judge. She served in that capacity for one year, after which she hit another milestone.

Ms. Duncan was then appointed commissioner of the North Carolina Utilities Commission—another first for a black woman. As commissioner, she was responsible for telecommunications, natural gas and water regulations. She served as commissioner until she entered private practice with the law firm of Kilpatrick Stockton, where she is currently a partner. Her area of concentration is energy-related issues, but she also handles regulatory matters involving rate making, and mergers and acquisitions.

I am proud to add that if confirmed, Ms. Duncan will hit a third milestone: that of being the first black woman to sit on the Fourth Circuit Court Appeals. A circuit, I would like to note, that has a 24 percent black population—the highest black population for all of the circuit courts.

Allyson Duncan has a fine background, which will serve her well as a circuit court judge. She will be a terrific addition to the Court, and I urge my colleagues to join me in supporting her nomination.

Mr. LEAHY. Mr. President, today the Senate will confirm the first new judge to the Fourth Circuit from North Carolina in 23 years as well as a nominee to the District Court for the Eastern District of North Carolina. I want to thank Senator EDWARDS for his efforts to resolve the impasse that has stalled so many nominees from North Carolina. Part of his reward will be the service that Judge Allyson Duncan will soon be providing to the people of North Carolina as a member of the United States Court of Appeals for the Fourth Circuit. When Senator EDWARDS obtained a hearing for Judge Duncan last month, her nomination had already progressed further than the Republican majority had allowed the nominations of Judge James Beaty, Judge James Wynn, and Judge Rich Leonard to proceed when they were nominated to the Fourth Circuit by President Clinton from 1995 through 2001. This confirmation means that North Carolina once again is represented on the Fourth Circuit.

In addition, Judge Duncan will be the first African-American woman to serve

on the Fourth Circuit, a circuit that did not have an African-American judge until President Clinton appointed Roger Gregory 2½ years ago.

A good way to see how much faster we are proceeding on judicial nominations for a Republican President is to compare where we are in July of this year to July of any year during the last Democratic administration when the Republicans controlled the Senate. Over the last 6½ years of Republican control under President Clinton, the Republicans allowed only 19 judicial confirmations, on average, by July 16, and included only 4 circuit court nominees, on average, by this time. We have now doubled the number of judicial confirmations and more than doubled the number of circuit court confirmations.

On this day, in 1995, only 27 judicial nominations had been confirmed; in 1996, only 10; in 1997, only 6; in 1998 the confirmations totaled 33; in 1999, only 9; and in 2000 the confirmation total by this point of the year was 29. Today, we confirm the 37th and 38th judges so far this year. We have already confirmed more judges in only the seventh month of this year than the Republican majority was willing to confirm in all of 1999, in all of 1997, and more than twice as many as the Republican majority was willing to consider during the entire 1996 session. Vacancies in the courts stand at less than half of what they were during the Clinton years and we have more Federal judges serving than ever before.

Today, we confirm the 10th judge to the Courts of Appeals. This is more than were confirmed in all of 4 of the past 6 years when the Republicans were in the majority—in 1996, 1997, 1999, and 2000. And in the 2 other years, the Tenth Circuit nominee was not confirmed until much later in the year.

As I have noted throughout the last 3 years, the Senate is able to move expeditiously when we have consensus nominees. I am delighted that these North Carolina nominees have the support of Senator EDWARDS and Senator DOLE and that we have been able to move forward so expeditiously to confirm them. Unfortunately, far too many of this President's nominees have records that raise serious concerns about whether they will be fair judges to all parties on all issues.

The PRESIDING OFFICER. All time has been yielded. The question is, Will the Senate advise and consent to the nomination of Allyson K. Duncan, of North Carolina, to be United States Circuit Judge for the Fourth Circuit?

The yeas and nays have been ordered. The clerk will call the roll.

Mr. MCCONNELL. I announce that the Senator from Texas (Mrs. HUTCHISON) and the Senator from Virginia (Mr. WARNER) are necessarily absent.

Mr. REID. I announce that the Senator from Louisiana (Mr. BREAU), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr.

KERRY), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 289 Ex.]

YEAS—93

Akaka	DeWine	Lincoln
Alexander	Dodd	Lott
Allard	Dole	Lugar
Allen	Domenici	McCain
Baucus	Dorgan	McConnell
Bayh	Durbin	Mikulski
Bennett	Edwards	Murkowski
Biden	Ensign	Murray
Bingaman	Enzi	Nelson (FL)
Bond	Feingold	Nelson (NE)
Boxer	Feinstein	Nickles
Brownback	Fitzgerald	Pryor
Bunning	Frist	Reed
Burns	Graham (SC)	Reid
Byrd	Grassley	Roberts
Campbell	Gregg	Rockefeller
Cantwell	Hagel	Santorum
Carper	Harkin	Sarbanes
Chafee	Hatch	Schumer
Chambliss	Hollings	Sessions
Clinton	Inhofe	Shelby
Cochran	Inouye	Smith
Coleman	Jeffords	Snowe
Collins	Johnson	Specter
Conrad	Kennedy	Stabenow
Cornyn	Kohl	Stevens
Corzine	Kyl	Sununu
Craig	Landrieu	Talent
Crapo	Lautenberg	Thomas
Daschle	Leahy	Voinovich
Dayton	Levin	Wyden

NOT VOTING—7

Breaux	Kerry	Warner
Graham (FL)	Lieberman	
Hutchison	Miller	

The nomination was confirmed.

#### NOMINATION OF LOUISE W. FLANAGAN, OF NORTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF NORTH CAROLINA

The PRESIDING OFFICER. Under the previous order, the Senate will now consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Louise W. Flanagan, of North Carolina, to be United States District Judge for the Eastern District of North Carolina.

NOMINATION OF LOUISE W. FLANAGAN

Mrs. DOLE. Mr. President, Louise Flanagan is the first woman to serve as a district court judge for North Carolina's Eastern District. Serving as a magistrate judge for the Eastern District since 1995, Louise Flanagan is consistently praised by her colleagues on the Eastern District Court for her integrity and her fairness in the courtroom. Whether in previous positions with the law firms of Ward and Smith in Greenville, NC, or Sonnenschein Nath and Rosenthal in Washington, DC, or at the Center for National Security Law, Ms. Flanagan's accomplishments are numerous on behalf of the